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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,798	04/25/2005	Takehiko Kishikawa	2005_0600A	5653

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WASHINGTON, DC 20006-1021

EXAMINER

COURSON, TANIA C

ART UNIT	PAPER NUMBER
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2859

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06/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/532,798	Applicant(s) KISHIKAWA, TAKEHIKO	
	Examiner Tania C. Courson	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schnell (US 527,815) in view of Thomas (US 2,457,613).

Schnell discloses a level instrument including of the following:

- a) a main body frame (Fig. 1) that is to be arranged along a vertical face to be measured (Fig. 1), the main body frame having a first end and a second end (Fig. 1); and a reference arm (30') connected to the first end of the main body frame so as to be perpendicular relative to the main body frame (Fig. 1); and a telescoping arm (20 & 30) connected to the second end of the main body frame so as to be perpendicular relative to the main body frame (Fig. 1), wherein the reference arm and the telescoping arm extend in the same direction from the main body frame and are adapted to contact the face to be measured (Fig. 1), and wherein the said telescoping arm has a slide scale (23) that is movable by telescoping the telescoping arm (Fig.1) for determining a level of the telescoping arm (Fig. 1), the gauge being mounted at a position corresponding to a reference line of graduations of the slide scale (Fig. 1) wherein during an inclination

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measurement, the telescoping arm is adjusted so that the telescoping arm is level as indicated by the gauge (Fig. 1);

- b) wherein the gauge determines a level of the telescoping arm in a telescoping direction (Fig. 1);
- c) wherein said gauge determines a level of the telescoping arm in a direction perpendicular to a telescoping direction (Fig.1);
- d) wherein said gauge can be observed from both upper and under sides of the telescoping arm (Fig.1);
- e) further comprising a driving mechanism (26) that drives a telescoping operation of the telescoping arm (Fig.1);
- f) wherein the said driving mechanism converts a rotary movement of a rotating member into a telescoping movement of the telescoping arm (Fig.1);
- g) wherein the said reference arm is provided with a protrusion (30') on a portion to be in contact with the face to be measured on an outer side of the main body frame (Fig.1);
- h) wherein the said main body frame is provided with a bubble gauge for determining a level of the main body frame (Fig.1);
- i) wherein when the telescoping arm becomes level as indicated by the gauge, the inclination of the face to be measured is indicated by the slide scale (12) on the telescoping arm (Fig.1).

Schnell does not disclose a bubble gauge.

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Thomas teaches a combination tool that includes a bubble gauge (47, 49 and 50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the level instrument of Schnell, so as to include a bubble gauge, as taught by Thomas, so as to provide additional inclination measurement accuracy during measurement of a surface.

Response to Arguments

3. Applicant's arguments filed on April 24, 2007 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a measurement device:

Levine (US 6,973,733 B2)

Cameron (US D 362,399)

Miller (US 5,131,164)

Watkins (US 5,101,569)

Goulette (US 4,897,931)

Jansson (US 4,399,616)

Foster et al. (US 3,857,188)

Holderer (US 3,159,926)

Mathews (US 3,752,566)

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Vincent (US 2,720,705)

Best et al. (US 1,829,257)

Osborn (US 307,321)

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239. The examiner can normally be reached on Monday, Wednesday and Thursday from 10AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TCC
June 18, 2007



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800